IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.3213 OF 2005

Vijay Vasant Angne Petitioner

Vs.

Dr.Mrs.Jyoti Bobe & ors. Respondents

Mr.D.S.Chandanani for petitioner.
Mr.C.J.Sawant for Resp.Nos.1(a) & 1(b).
Mr.R.G.Ketkar for Resp.No.2.
Mr.K.V.Saste, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.

January 17, 2006.

P.C.

1. Heard the learned counsel for the petitioner.

Prayer clause (a) in this petition reads as under:

> "issue a Writ of Mandamus or writ in the nature of Mandamus, or any other Writ, direction or order in the nature of Writ of Mandamus under Article 226 of the Constitution of India or any order in exercise of inherent powers of this Hon'ble Court under S. 482 of the Code of Cr. Procedure, declaring that order dated 13th May 2005, resolutions dated 22nd August 2005, letter dated 15th September 2005, application dated 23rd September 2005, notice dated 20th October 2005 letters dated

17th October 2005, and letter dated 6th Dec. 2005, Exhibits, S, Z, Z-2 to Z-4, Exhibits Z-7 and Z-7 and Exhibit Z-18 respectively to this petition have been fabricated and forged by respondent Nos.1 to 5 for the purpose of stifling R.C.C. No.535 of 2005, pending in the Court of JMFC, C.B.D. Belapur as also in R.C.S. No.24 of 2003, pending in the Court of Civil Judge (J.D.), Thane, which constitute offences under Sections 191, 192, 199 and 200, read with Section 120B and or Section 34/37 of Indian Penal Code, and read with Sections 4, 7 and 11 of MOFA and 409 and 420 read with 120B, or in the alternative 34/38 of Indian Penal Code."

. Prayer clause (b) is for declaration of the orders, resolutions and applications mentioned in prayer clause (a) to be fabricated and forged and prayer clause (c) is for a writ of mandamus and to invoke the inherent powers of this Court under Section 482 of the Code of Criminal Procedure for a declaration that the permission granted by respondent respondent no.3 i.e. the Commissioner / Town

Planning Officer, Navi Mumbai Municipal Corporation

to be illegal.

2. Undoubtedly the order dated 13th May 2005 is already a subject matter of challenge in an appeal pending before the State Government The resolution dated 21st August 2005 is passed by the Maruti Enclave Co-operative Housing Society Ltd. in its annual general body meeting and the same can be challenged before an appropriate authority under the Maharashtra Co-operative Societies Act. The letter dated 15-9-2005 was addressed to the said Co-operative Housing Society by the Assistant Registrar, Co-operative Societies, Cidco, Navi Mumbai and if the petitioner is aggrieved by such communication, he has a remedy under the Maharashtra Co-operative Societies Act. It is also admitted that an administrator has been appointed for Maruti Enclave Co-operative Housing Society Ltd. and the petitioner had challenged the said order dated 13-5-2005 before this Court in Writ Petition No.6656 of 2005. The said petition was not entertained on account of alternate remedy available by way of a revision application under the Mahrashtra Co-operative Societies Act. Declarations as prayed

for in this petition cannot be entertained in a writ petition under Article 226 of the Constitution. We, therefore, do not find any reason to entertain this petition and more so when the prayer for criminal contempt cannot be entertained in a petition under Article 226 of the Constitution. The petition must, therefore, fail at the threshold.

3. Petition is hereby rejected summarily.

4. However, it is clarified that this order will not come in the way of the petitioner to approach the appropriate court / forum for redressal of his grievance by way of alternate remedy.

(SMT.R.S.DALVI,J.) (B.H.MARLAPALLE,J.)